

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CHRISTOPHER M. CHRISTY,

Petitioner,

v.

Civil No. 05-CV-74560-DT
HONORABLE LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

BLAINE LAFLER,

Respondent,

_____ /

OPINION AND ORDER OF SUMMARY DISMISSAL

Christopher Christy, (“petitioner”), presently confined at the St. Louis Correctional Facility in St. Louis, Michigan, seeks the issuance of a writ of habeas corpus pursuant to 28 U.S.C. § 2254. In his application, filed *pro se*, petitioner challenges his conviction for one count of second-degree murder, M.C.L.A. 750.317; M.S.A. 28.549. For the reasons stated below, the petition for writ of habeas corpus is summarily dismissed.

I. Background

Petitioner pleaded guilty to the above offense in the Macomb County Circuit Court on August 20, 2002. On October 16, 2002, petitioner was sentenced to twenty two and a half to forty years in prison.

Petitioner’s conviction and sentence were affirmed on appeal. *People v. Christy*, 252636 (Mich.Ct.App. June 2, 2004); *lv. den.* 471 Mich. 951; 690 N.W. 2d 106 (2004).

On November 17, 2005, petitioner filed a petition for writ of habeas corpus with the U.S. District Court for the Eastern District of Michigan, in which he challenged his 2002 conviction for second-degree murder by raising three claims. This petition is currently pending before Judge

Robert H. Cleland. *Christy v. Lafler*, U.S.D.C. 05-CV-74390-DT. A decision has not yet been rendered in that case.

On December 1, 2005, petitioner filed the instant petition with this Court, in which he challenged the same conviction and sentence for second-degree murder that he is challenging in Judge Cleland's case and raised the same three identical claims that he has presented in the petition before Judge Cleland.

II. Discussion

The instant petition for writ of habeas corpus must be dismissed because it is duplicative of the habeas petition pending before Judge Cleland.

A suit is duplicative, and thus subject to dismissal, if the claims, parties, and available relief do not significantly differ between the two actions. *See Barapind v. Reno*, 72 F. Supp. 2d 1132, 1145 (E.D. Cal. 1999). Petitioner's current habeas petition is subject to dismissal as being duplicative of his still pending first habeas petition, because both cases seek the same relief. *Id.* Because petitioner challenges the same conviction in both petitions and raises the same claims, the Court will dismiss this second petition as being duplicative. *See Harrington v. Stegall*, 2002 WL 373113, * 2 (E.D. Mich. February 28, 2002); *See also Davis v. U.S. Parole Com'n*, 870 F. 2d 657, 1989 WL 25837, * 1 (6th Cir. March 7, 1989)(district court can properly dismiss a habeas petition as being duplicative of a pending habeas petition, where the district court finds that the instant petition is essentially the same as the earlier petition).

In the present case, the instant petition challenges the same conviction and raises the same claims and makes the same legal arguments as the petition in the case pending before Judge Cleland. A district court is permitted to take judicial notice of its own files and records in a habeas

proceeding. *See Van Woudenberg ex. rel. Foor v. Gibson*, 211 F. 3d 560, 568 (10th Cir. 2000). This Court is therefore permitted to take judicial notice of its own court documents and records in determining that the current habeas petition is duplicative of the previously filed application for habeas relief. *See Harrington*, 2002 WL 373113, * 2. Accordingly, this petition for writ of habeas corpus will be dismissed.

III. ORDER

Based upon the foregoing, IT IS ORDERED that the petition for a writ of habeas corpus is **SUMMARILY DISMISSED.**

s/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: December 19, 2005

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on December 19, 2005.

s/Marie E. Verlinde
Case Manager
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